IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.561 OF 2005

Commander Alok Mohan. .. .. Petitioner
v/s.
1. The Flag Officer Commanding
Goa Area & ors. .. .. Respondents

Mr.D.K. Ghaisas for petitioner.

Mr.Rajiv Chavan with Ms.A.Kaushik for respondents.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 23RD MARCH 2005

P.C. :

1. Heard Mr.Ghaisas in support of this petition. Mr.Chavan appears for the respondents.

2. The petitioner was working as a Commandant (Time Scale) in Indian Navy. He submitted an application for premature retirement on 18th May 2004. That application was accepted by the Competent Authority on 9th July 2004. But that was to be effective from 31st March 2005. In between on 17th December 2004, he applied for withdrawal of his application for premature retirement. That application was rejected and,

therefore, the present petition has been filed.

3. The principal submission of Mr.Ghaisas appearing for the petitioner is that a Government servant can withdraw his application for voluntary retirement any time before the same is actually brought into force. According to him, the date of acceptance of the application is not material. In this behalf, he relied upon a judgment of the Apex Court in the case of **Shambhu Murari Sinha vs. Project & Development India & anr. reported in (2000) 5 SCC 621**, which supported the petitioner's case wherein it was held that the application for voluntary retirement can be withdrawn any time before the effective date.

4. Mr.Chavan appearing for the respondents has pointed out that the very judgment has been reviewed by the Apex Court which is reported in **(2002) 3 SCC 437** wherein the Apex Court quoted with approval the earlier view in the case of **Raj Kumar vs. Union of India in (2000) 5 SCC 621** that it is not open to a public servant to withdraw his resignation after it is accepted by the appropriate authority. He has also drawn our attention to the subsequent judgment in the case

of **Vice-Chairman and Managing Director, A.P.SIDC LTD. & anr. vs. R. Varaprasad & others reported in (2003) 11 SCC 572**. There are also other judgments to the same effect viz. in the case of **Bank of India vs. O.P. Swaranakar reported in AIR 2003 SC 858 and in the case of Punjab National Bank vs. Virender Kumar Goel reported in AIR 2004 SC 3988**. This being the legal position, we do not find any merit in the submissions of the petitioner. The petition is, therefore, rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)